

Meeting Minutes
February 26, 2019 Planning Board Meeting
7:00 P.M. | City Council Chamber, Woburn City Hall

Chair Dave Edmonds called the meeting to order at 7:00 pm and asked Planner Karen Smith to call the roll.

Mr. Kevin Donovan, Ms. Claudia Bolgen, Mr. Jim Callahan, Mr. Michael Ventresca, Ms. Carolyn Turner and Chair Dave Edmonds were present; Mr. Bob Doherty was absent. Also present were Planning Director Tina Cassidy and Planner Karen Smith.

Legacy Lane (83-85 Middle Street) ANR / Francis J. Michienzi

Cassidy reviewed the ANR plan stating the applicant submitted a lot line adjustment for the primary purpose of modifying the outer boundary lines and interior lot lines of lots in the approved subdivision. The plan proposes to combine Lot 2 (containing 11,202 ft²) and Parcel C (containing 2,941 ft²) to form one (1) building lot with a total area of 14,145 ft². The plan also makes minor adjustments to the side lot lines between lots 1 and 2, 2 and 3 and 3 and 4. Street frontage would not be affected and no new street lines are proposed. In addition, no zoning non-conformities occur as a result of this plan. Endorsement and recordation of this plan will rectify a surveying error in connection with the approved subdivision plan and ensure that each building lot contains the required amount of land area.

The developer's engineer, Mark Sleger of ALAN Engineering, LLC of 110 Winn Street, Woburn, stated he was the original engineer on the project and explained that Parcel C was conveyed to Frank Michienzi who transferred it to his son who is now the owner of Lot 2. Sleger stated the parcel that is being subdivided is recorded land and the adjoining land was both recorded and registered land. Parcel C represents the unregistered portion of the abutting property. All of the plans of record at the Registry of Deeds show what was stated on the original boundaries; the surveyor that did the registered land piece made an error and that error subsequently was registered, therefore, even though it was wrong according to the land court, it was correct. To rectify the problem, Parcel C was purchased.

Cassidy stated that she would recommend Board endorsement of the ANR plan, as submitted, as one not requiring approval under the Subdivision Control Law.

Motion to approve the ANR plan as one not requiring approval under the Subdivision Control Law, made by Bolgen;
Seconded by Callahan;
Motion carried, 6-0-0.

PUBLIC HEARING: PROPOSED MODIFICATION TO THE ALAN R. GERRISH DRIVE (88-92 PEARL STREET) DEFINITIVE SUBDIVISION

Cassidy stated that Donovan was absent for the January 8, 2019 Public Hearing and has filed a Missed Hearing Certification Form to qualify himself to participate in this hearing and is eligible to vote on this matter.

Chair Edmonds opened the Public Hearing by asking if any audience members would like to step forward to speak for or against this matter. No audience members stepped forward.

Motion to close the Public Hearing made by Bolgen;
Seconded by Turner;
Motion carried, 6-0-0.

Cassidy stated the developer filed a modification request to shift the location of the sewer line servicing this subdivision. The proposed modification to the sewer route was out to the back of the subdivision to a sewer interceptor line rather than laid in the new street and connecting to the line in Pearl Street. After several discussions with the DPW Director, the developer and DPW Director agreed on a way consistent with the original approved plan and therefore, the developer submitted a request to withdraw the modification, without prejudice.

A motion to approve the request to withdraw the modification to the definitive subdivision, without prejudice, made by Bolgen;
Seconded by Callahan;
Motion carried 6-0-0.

PUBLIC HEARING: PROPOSED ZONING TEXT AMENDMENT TO REVISE SECTION 29 OF THE ZONING ORDINANCE ENTITLED CONVERSION OF HISTORIC BUILDING OR STRUCTURE

Cassidy stated that Alderman Tedesco was unable to attend the meeting and filed a letter with the Planning Board outlining his thoughts. Cassidy summarized this proposal, stating it is an amendment to an ordinance that was recently adopted within the last couple of months that allowed for the conversion of certain properties meeting certain criteria to residential use. This new amendment would modify that and it would allow a building under the same criteria to be converted not only to residential use, but to a combination of residential and commercial uses. This new section would allow an office use located entirely within the building that has been deemed to be a Significant Historic Building by the Woburn Historical Commission that legally exists, even if nonconforming, be allowed to continue provided it is a preexisting legal use; such use does not exceed 25% of the gross floor area; is in existence as of December 4, 2018; the space allocated to the office use is reduced as part of the Special Permit; and the continued office use together with the additional residential use shall not substantially impact the comfort, privacy, quiet enjoyment, and standard of living of residents in the property and neighborhood.

Chair Edmonds opened the Public Hearing by asking if any audience members would like to step forward to speak for or against this matter. No audience members stepped forward.

Motion to close the Public Hearing made by Ventresca;
Seconded by Turner;
Motion carried, 6-0-0.

Cassidy expressed her concerns regarding the proposed amendment stating there the potential for a lot of unknowns by permitting the continued use of a portion of the building as commercial. For example, this proposal states that the office use couldn't comprise more than 25% of the gross floor area of the building. One parcel in particular that would be eligible has a building with about 7,000-8,000 square feet of area but 4,000 sq. ft. of it is not built out or actively being used at all right now. The 25% calculation would be based on the total square footage, perhaps creating a false impression that the commercial floor area is being reduced when it actually is not. This amendment would add

approximately 10-15 additional properties to the total number of properties that could conceivably apply for mixed-use under this ordinance, noting the accuracy of the listed prepared on behalf of Tedesco cannot be confirmed. Cassidy illustrates another issue: There is an 8,000 square foot building that currently has two residential units and a small commercial space that employs two to three people. If it's allowed to be converted under this proposed amendment, there could be 6-8 residential units plus the commercial space still in existence. Cassidy added several residents have had the opportunity to consider whether this property could be converted to a multi-tenant use and they are opposed to it as it would greatly increase the intensity of the use of that particular parcel. She provided a final example: There is a funeral home that under the current ordinance could apply for a special permit to convert it to 100% residential, but this new ordinance would allow it to be converted to partially commercial and residential. The commercial building is very lightly used each month and does not have a lot of on-site parking. Cassidy added that perhaps much of her concern is based on the fact that the ordinance is so new it hasn't even been used yet. As a result, it is not clear yet that the ordinance works well in practice. The ordinance does have some new unique elements, including the involvement of the Historical Commission with respect to determining historical significance absent a demolition delay procedure. They haven't been asked to do that once yet, and how they will interact with the Council is unknown. By allowing more complex applications (e.g. residential and commercial versus "just" residential", you may be "qualifying" some parcels that may not be appropriate.

Callahan questioned the process if the amendment was to be further revised or if the Board was able to table the amendment.

Cassidy emphasized the importance of knowing that the recently-enacted ordinance, including the involvement of the Historical Commission in the process, works seamlessly with the Council. She states that will not be known until a property owner applies for consideration under the new ordinance.

Bolgen stated the Planning Board is only the recommending body to the Council and the Council has the right to accept or put aside the Board's recommendation. The sense she received from Alderman Tedesco's letter to the Board was the idea that office use in this particular zoning ordinance was intended to be included in the original ordinance but was not. Bolgen stated tabling a recommendation might not be appropriate based on the fact that the Board is only the recommending authority and only forwards any potential concerns about the ordinance that might be useful for the Council in its decision-making process. Bolgen added the Board's goal is to make sure all the planning processes are considered and emphasized this is a brand-new ordinance and we are not sure what we have in place works.

Ventresca stated he agrees with the Planning Director's recommendation that Section 29 needs to mature before it is edited. He is leery about its applicability and is uncomfortable with the way the revision is written as it raises concerns about expanding the scope of the newly-adopted Section 29.

Motion by Ventresca to forward an unfavorable recommendation on this zoning amendment to the City Council based on the reasons articulated by the Planning Director;

Seconded by Turner;

Motion carried 6-0-0.

300 MISHAWUM ROAD (WOBURN MALL)

Cassidy reminded the Board that in July of last year, the Planning Board approved a four-lot definitive subdivision plan which the property owners indicated was only filed for the purposes of “freezing” the zoning that was in effect at the time. The City was then considering increasing the percentage of affordable housing units required in certain projects, and the applicants wanted to preserve their right to provide a maximum of ten percent (10%). The City ultimately changed the zoning to require 15% affordable and further, the applicants subsequently agreed to provide 25% affordable units as part of the recently-approved 40R zoning district. Nonetheless, they still want to process the definitive subdivision plan. To that end the applicants have submitted a fully executed covenant that has been reviewed by the City Solicitor and are asking that it be adopted as the form of surety so the Board will subsequently endorse the definitive plan mylars.

Turner stated to the Chair that she will be recusing herself from voting on this matter as she has done in the past.

Cassidy recommended the covenant be accepted as the surety to guarantee project completion and that the Board endorse the definitive subdivision plan.

Motion by Bolgen to accept the Planning Director’s recommendation;
Seconded by Ventresca;
Motion carried, 5-0-1 (Turner recusing).

GERRISH DRIVE (88-92 PEARL STREET) DEFINITIVE SUBDIVISION: Request for acceptance and approval of Drainage & Sewer Easement, Covenant, HOA Declaration & Bylaws, O&M Plan, Dust Control Plan and rodent abatement services documents, and endorsement of definitive plan mylars

Turner rejoined the meeting.

Chair Edmunds recused himself from this matter and Donovan assumed the role of chair pro tem.

Cassidy provided an update stating there are outstanding documents due to the Planning Board that cannot be finalized until the Mylar has been revised to reflect changes that are required by the Board’s vote of subdivision approval. The plan needs to be prepared and given a revision date that can be cited in the documents. Cassidy expressed her concern for the amount of time that it has taken to receive the updated Mylars and recommends the Board vote to instruct the Director that if the developer is not able to provide the revised Mylar plans and finalized documents by one week from today (March 5, 2019) that she is given the authority to stop work on the property, in terms of any construction of the subdivision, until the developer is able to focus his attention on obtaining the plan and the required documents.

Turner inquired if there has been ongoing communication between the developer and staff. Cassidy replied that staff has had ample communication with the developer but they have not delivered the required plan and staff feels the developer just needs to focus his efforts on satisfying the necessary subdivision requirements.

Bolgen suggested the vote be structured to allow the developer to get his documents in order and submitted in a reasonable time manner before the next Board meeting before a cease and desist enters.

Cassidy stated if the developer submits the plan and outstanding documents to the Planning Department by the close of business on Tuesday, March 5, 2019, staff would have time to review and finalize the documents for completion and execution at the next meeting. If not delivered by then, the Board could vote to instruct the planning director to issue a cease and desist order to developer.

Motion by Bolgen to accept the Planning Director's recommendation;
Seconded by Ventresca;
Motion carried, 5-0-1 (Edmonds recusing).

Chair Edmonds rejoined the meeting and re-assumed the role of Chair.

EAST DEXTER AVENUE DEFINITIVE SUBDIVISION

Cassidy recalled that at its meeting on November 27, 2018, the Board voted unanimously to decline to accept and approve the final As-Built plan that had been submitted because of a determination by the Engineering Department that the retaining walls were built outside of the Dexter Avenue right of way on private property. It also observed that the roadway was constructed in substantial conformance with the approved plan and that the as-built plan itself met the requirements for such plans. The existence of the walls outside of the right of way requires the affected property owners to grant an easement to the City. It also necessitates the applicant's submission of a plan that would be recorded with the easements. Those specific documents are in the process of being completed.

Turner inquired if the neighbors are cooperating by signing the easement paperwork. Cassidy noted it is in the neighbors' favor to sign the easements, noting that if they do not sign them, they will be personally responsible for maintaining and repairing the wall in the future.

Bolgen stated that she would be comfortable extending the completion date based on the fact that all elements of the actual roadway/utility/subdivision construction phase are complete. This is unlike the situation with some other subdivisions, where construction has started but not been completed and leaving potentially hazardous conditions.

Bolgen motioned to grant the developer's request to extend the construction completion date to April 10, 2019;
Seconded by Ventresca;
Motion carried, 6-0-0.

EMERGING MAIL DELIVERY ISSUES WITH WOBURN SUBDIVISIONS

Chair Edmonds stated the Post Office is trying to reduce expenses relative to mail delivery by employing cluster box units (CBU's) rather than traditional house-mounted mailboxes. Cassidy stated Garvey Road is the first project that she is aware of that the Post Office has failed to deliver mail. The new regulation was passed in April of 2018 but to her knowledge, no one at City Hall was informed of the change. Employing CBU's rather than traditional house-mounted mailboxes will require changes to the Board's Subdivision Rules and Regulations and require prospective developers to consult with the US Postal Service while a subdivision plan is being processed. Discussion continued to include topics such as specifications for both the CBU itself and for any needed access such as easement(s) or other land dedication for the box's location, dimensions of the area needed to accommodate a CBU's, and nearby sidewalk, curbing and street accommodations for

pedestrian, motorist and handicapped access to the boxes. The Board also discussed whether or not the US Postal Service could provide specifications that could be incorporated into the Board's subdivision regulations; whether an HOA should always be required with future subdivisions providing an alternative to the City being responsible for maintaining a CBU, including any shelter around/over it as well as maintaining access to it including snow removal and pathway repair, etc. Discussion also touched on liability if City snow plows or contract service providers knock the CBU or its shelter down.

Motion made by Bolgen for the Planning Board to send a missive to the Mayor, as the Chief Executive Officer of the City, to have the Mayor, President of City Council, and Planning Board Chair jointly author a letter to the Officer in Charge (Acting Postmaster) that addresses the concerns of the City Council, Planning Board and residents regarding the issue of employing Cluster Box Units not just on Garvey Road but in all of the other subdivisions that are under construction and therefore possibly impacted by the new federal regulation.

Motion seconded by Ventresca; he stated that the Acting Postmaster's decision seems to be arbitrary and capricious against one particular neighborhood and it is concerning that people are unable to have their mail delivered. He questioned how the Post Office Manual is legal and binding and how the Board would tailor its Rules and Regulations to comply with the POM document.

Bolgen discussed the issue of the Post Office requiring a CBU after a subdivision has already been approved and the complication of where a CBU will be placed within the subdivision along with the legal and maintenance issues an HOA will undertake. Bolgen also stressed the importance and necessity of these issues being discussed and set up in advance, during the plan approval process, and not afterward.

Cassidy stated there is potential for the Post Office to waive the requirement of a CBU given a provision in the POM.

Discussion ended and Edmonds called for a vote;

Vote on the motion carried unanimously, 6-0-0.

APPROVAL OF JANUARY 22, 2019 MINUTES

Motion to approve the minutes of the January 22, 2019 Planning Board meeting as drafted made by Bolgen;

Seconded by Turner.

Motion carried, 5-0-1 (Donovan abstained).

PLANNING DIRECTOR'S UPDATE

Cassidy stated the next Board meeting is scheduled for March 12, 2019. Agenda items should include the 88-92 Pearl Street (Gerrish Drive) and East Dexter Avenue subdivisions. Bolgen inquired about including a workshop-style discussion on March 12, 2019 for the purpose of continuing discussion on reviewing and amending the Subdivision Rules and Regulations. In particular, discussion focusing on the Board's priorities in terms of roadway pavement widths, sidewalks, planting strips, etc. seems to be the next step. She added a brief summary of the progress the Board made in the previous workshop meetings would be helpful to review prior to the next meeting.

Edmonds asked Cassidy to ensure the letter to the Post Master, discussed previously in the meeting, could include an inquiry as to when the Post Office originally sent their notification letter to the City of Woburn requiring the implementation of CBU's.

Ventresca suggested the letter also inquire as to what other cities and towns have experienced the same situation. Cassidy stated she will add that request to the letter she will be writing to the Mayor.

ADJOURNMENT

Edmonds asked if there was any other business for the Board to conduct. Cassidy stated there was not.

Seeing no further business, Bolgen made a motion to adjourn the meeting at 7:59 pm;
Seconded by Donovan;
Motion carried, 6-0-0.

The meeting adjourned at 7:59 pm.

Table of Documents Used and/or Referenced at Meeting

Planning Board Staff Report
Staff Report Attachment: ANR application and Plan for Legacy Lane
Staff Report Attachment: Cattle Crossing LLC Letter of Request to Withdraw Subdivision modification without prejudice regarding 88-92 Pearl Street.
Staff Report Attachments regarding Amendment to Conversion of Historic Buildings and Structures: Alderman Tedesco letter to Planning Board and list of properties over 100 years and exceeds 4,000 square feet
Staff Report Attachments: 300 Mishawum Road covenant and subdivision approval letter
Staff Report Attachments for Gerrish Drive (88-92 Pearl Street): Drainage & Sewer Easement, Covenant, HOA Declaration & Bylaws, O&M Plan, Dust Control Plan and rodent abatement services draft documents; City Solicitor memo regarding draft documents
Staff Report Attachments: USPS Response to City Council (dated 1-30-2019); City Council letter to USPS (dated 2-12-19) and Postal Operations Manual (POM) revisions
Staff Report Attachment: Letter of Request from Seaver Construction to extend construction completion date to April 10, 2019 for East Dexter Avenue Subdivision
Planning Board Staff Letters of Recommendation to City Council regarding Special Permit Applications
Draft Planning Board meeting minutes January 22, 2019

Respectfully submitted,

Karen Smith

Karen Smith
Planner